

MINUTES

LAKE COUNTY ZONING BOARD

MAY 3, 2006

The Lake County Zoning Board met on Wednesday, May 3, 2006 in the Commission Chambers on the second floor of the Round Administration Building to consider petitions for rezonings, Conditional Use Permits, and Mining Site Plans.

The recommendations of the Lake County Zoning Board will be submitted to the Board of County Commissioners at a public hearing to be held on Tuesday, May 23, 2006 at 9 a.m. in the Commission Chambers on the second floor of the Round Administration Building, Tavares, Florida.

Members Present:

Timothy Morris, Vice Chairman	District 1
Scott Blankenship	District 2
James Gardner, Secretary	District 3
Paul Bryan, Chairman	District 5
Donald Miller	Member-at-Large
Larry Metz	School Board Representative

Members Not Present:

Robert H. Herndon	District 4
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Staff Present:

Amye King, Deputy Director, Department of Growth Management
Terrie Diesbourg, Director, Customer Services Division
Interim Director, Planning and Development Services Division
John Kruse, Senior Planner, Planning and Development Services Division
Rick Hartenstein, Senior Planner, Planning and Development Services Division
Stacy Allen, Senior Planner, Planning and Development Services Division
Jennifer DuBois, Senior Planner, Planning and Development Services Division
Mary Harris, Public Hearing Coordinator, Planning and Development Services Division
Sherie Ross, Public Hearing Coordinator, Planning and Development Services Division
Ross Pluta, Engineer III, Engineering Division
Melanie Marsh, Deputy County Attorney
LeChea Parson, Assistant County Attorney

Chairman Bryan called the meeting to order at 9:05 a.m. He led in the Pledge of Allegiance, and Timothy Morris gave the invocation. Chairman Bryan noted that a quorum was present. He confirmed the Proof of Publication on the monitor.

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Minutes

Sherie Ross, Public Hearing Coordinator, stated that at last month's meeting, James Gardner had questioned the last sentence of the minutes on Page 22 of the March 1, 2006 Lake County Zoning Board public hearing. Ms. Ross said she had checked the tape, and the following sentence would be an accurate interpretation of what was said: "He said the Board is continuously being told that the schools are overcapacity; but this Board is never given capacity figures in which portable classrooms are taken into account." She could amend the minutes to reflect that change if the Board was agreeable.

MOTION by Donald Miller, SECONDED by Scott Blankenship to approve the March 1, 2006 Lake County Zoning Board Public Hearing minutes, as amended.

FOR: Morris, Blankenship, Gardner, Bryan, Miller, Metz

AGAINST: None

NOT PRESENT: Herndon

MOTION CARRIED: 6-0

In addition, Ms. Ross asked if the approval of the April minutes could be postponed until the next public hearing so she could check the tape as requested by Larry Metz.

Rick Hartenstein explained the public hearing procedure including the consent agenda.

CASE NO.: PH#30-06-5 AGENDA NO.: 6

**OWNERS: McComb Management, Incorporated, Joseph A.
McComb, Peter S. McComb, Virginia F. McComb
Trust, Mary Lee Dunstan**

APPLICANT: Fred Hamilton

Rick Hartenstein, Senior Planner, stated that the applicant for PH#30-06-5 has withdrawn the case. He submitted an e-mail confirming that request as County Exhibit A.

MOTION by Timothy Morris, SECONDED by Donald Miller to accept the withdrawal of PH#30-06-5.

FOR: Morris, Blankenship, Gardner, Bryan, Miller, Metz

AGAINST: None

NOT PRESENT: Herndon

MOTION CARRIED: 6-0

CASE NO.: PH#31-06-5 **AGENDA NO.:** 7
OWNERS: David S. Garber, Trustee, and Cindy L. Levandoski
APPLICANT: Fred Hamilton

CASE NO.: PH#32-06-5 **AGENDA NO.:** 8
OWNER: Mannon Shaw
APPLICANT: Fred Hamilton

Rick Hartenstein, Senior Planner, stated that the applicant for PH#31-06-5 and PH#32-06-5 has withdrawn those cases. He submitted e-mails confirming that request as County Exhibit A.

MOTION by Timothy Morris, SECONDED by Donald Miller to accept the withdrawal of PH#31-06-5 and PH#32-06-5.

FOR: Morris, Blankenship, Gardner, Bryan, Miller, Metz

AGAINST: None

NOT PRESENT: Herndon

MOTION CARRIED: 6-0

CASE NO.: PH#53-06-5**AGENDA NO.: 1****OWNERS: Linda Austin and Gerald Braley**
APPLICANT: Hugh Harling, Jr., P.E.

Rick Hartenstein, Senior Planner, stated that a 30-day continuance had been requested for this case due to an advertising problem. Some advertisements were sent to the wrong addresses because the addresses have changed from what was on the tax role. Hugh Harling was present to answer questions as well as a representative from the opposition. He submitted a Notice of Appearance from Robert E. Bone, Jr., P.A. and Robert E. Bone, Jr. as County Exhibit A and showed it on the monitor.

When Paul Bryan asked if this request was from staff, Mr. Hartenstein said Mr. Harling would prefer to clear up all issues before proceeding. Staff did not have a problem with the continuance. Mr. Bryan said he would like to address the other continuance requests and come back to this case later.

CASE NO.: PH#50-06-2

AGENDA NO.: 11

OWNER: Clonts Grove, Inc.
APPLICANT: Cecelia Bonifay, Esq.

Rick Hartenstein, Senior Planner, referred to the letter in the backup for this case in which the applicant requested a 30-day continuance in order to provide additional information to staff.

There was no one in the audience who wished to speak on the case.

MOTION by Donald Miller, SECONDED by Scott Blankenship to continue PH#50-06-2 until the June 7, 2006 Lake County Zoning Board public hearing.

FOR: Morris, Blankenship, Gardner, Bryan, Miller, Metz

AGAINST: None

NOT PRESENT: Herndon

MOTION CARRIED: 6-0

CASE NO.: PH#41-06-4

AGENDA NO.: 12

OWNER: Crosland Britt Rd., LLC
APPLICANT: Cecelia Bonifay, Esq.

Rick Hartenstein, Senior Planner, referred to a letter in the back-up information in which the applicant requested a 60-day continuance to allow her to continue working with the City of Mount Dora regarding a possible annexation.

There was no one in the audience who wished to speak on the case.

MOTION by Donald Miller, SECONDED by Scott Blankenship to continue PH#41-06-4 until the July 5, 2006 Lake County Zoning Board public hearing.

FOR: Morris, Blankenship, Gardner, Bryan, Miller, Metz

AGAINST: None

NOT PRESENT: Herndon

MOTION CARRIED: 6-0

CASE NO.: PH#59-05-3**AGENDA NO.: 16****OWNERS: Murry W. and Marsha P. Crawley**
APPLICANT: Steven J. Richey, P.A.

Rick Hartenstein, Senior Planner, stated that this case had been continued previously pending the outcome of the proposed new Comprehensive Plan. Since the new Comprehensive Plan has not yet been adopted, they are requesting an additional six-month continuance until the November 1, 2006 Lake County Zoning Board public hearing. Previously Sanford A. Minkoff, County Attorney, had recommended a time-specific continuance that could be extended rather than an indefinite continuance. He showed the letter from Steve Richey requesting the six-month continuance that was included in the backup information on the monitor.

Steve Richey was present to represent the case.

There was no one in the audience who wished to speak on the case.

MOTION by Timothy Morris, SECONDED by Donald Miller to continue PH#59-05-3 until the November 1, 2006 Lake County Zoning Board public hearing.

FOR: Morris, Blankenship, Gardner, Bryan, Miller, Metz**AGAINST: None****NOT PRESENT: Herndon****MOTION CARRIED: 6-0**

James Gardner thanked the applicant for requesting a long-term specific date rather than an indefinite continuance.

CASE NO.: PH#53-06-5**AGENDA NO.: 1****OWNERS: Linda Austin and Gerald Braley**
APPLICANT: Hugh Harling, Jr., P.E.

Hugh Harling said he had met with Mr. Bone and his client this past Monday. At that time he learned that they had not received the mail out that was sent to them. Today he was informed that the mail out went to the wrong address. He believes in public notification so their request is to be allowed to correct that defect and come back before this Board in 30 days.

Tiffany Kapner of LPG and city planner for the City of Umatilla said they are happy about the continuance request so they will have the opportunity to meet with Mr. Harling to discuss the project since much of the property lies within the Umatilla Joint Planning Area (JPA).

Brenda Smith stated that she filed a notice of appearance. She did not feel the property was appropriately posted for conspicuous public notice. Mr. Bryan said the County does a good job of posting the signs, but that does not always mean that they stay up.

MOTION by Donald Miller, SECONDED by Scott Blankenship to continue PH#53-06-5 until the June 7, 2006 Lake County Zoning Board public hearing.

FOR: Morris, Blankenship, Gardner, Bryan, Miller, Metz**AGAINST: None****NOT PRESENT: Herndon****MOTION CARRIED: 6-0**

CASE NO.: PH#54-06-3
OWNERS: James and Judy Frein
APPLICANT: Land Use Associates, LLC

AGENDA NO.: 2

CASE NO.: PH#49-06-4
OWNERS: Walter A. and Dawn R. Ringer
APPLICANT: Leslie Campione, P.A.

AGENDA NO.: 4

CASE NO.: PH#47-06-5
OWNER: M & J Groves, Inc.
APPLICANT: Joy S. Blount

AGENDA NO.: 15

Chairman Bryan stated that there were no speaker cards submitted for any of these cases so no discussion from the audience is necessary.

MOTION by Timothy Morris, SECONDED by Scott Blankenship to recommend approval of the rezoning and amendment requests in the above consent agenda.

FOR: Morris, Blankenship, Gardner, Bryan, Miller, Metz

AGAINST: None

NOT PRESENT: Herndon

MOTION CARRIED: 6-0

When Mike Blount asked if he could begin the minor lot split process for PH#47-06-5, Chairman Bryan suggested he meet with Mr. Hartenstein or another staff member to discuss that issue.

CASE NO.: PH#55-06-4

AGENDA NO.: 3

OWNERS: Nathaniel and Carolyn Richburg
APPLICANT: Sumter Electric Cooperative, Inc./Victoria
Bucher

Rick Hartenstein, Senior Planner, presented the case and staff recommendation of approval. He showed a picture of the posting, the aerial, and the preliminary development plan for the Mount Dora Operations Center from the staff report on the monitor. He submitted two e-mails of opposition as County Exhibit A.

Timothy Morris said he did not see anything mentioned about sound and light. According to the Land Development Regulations (LDRs) regarding lighting, Mr. Hartenstein said they are required to have the lighting so directed that it stays on their property. That would be addressed at Development Review Staff (DRS), but it can be incorporated into the Ordinance if the Board would recommend that.

Steve Richey was present to represent the applicant.

Victoria Bucher, Land Rights Coordinator for Sumter Electric, submitted the preliminary development plan for the Mount Dora Operations Center as Applicant Exhibit A. Regarding the storage of materials, Ms. Bucher said that would include materials used in the daily operations such as bolts and nuts that require indoor storage; there would be nothing of a chemical nature. The outdoor storage area would contain spools of wire and poles. The fuel island would be used for their trucks to fuel up daily, and there would also be a five-day emergency fuel supply in the event of a storm situation. The site would have an outdoor training facility for their lineman with some poles to practice climbing techniques. Ms. Bucher said there would also be a 199-foot communication antenna. In response to Mr. Richey, Ms. Bucher said a variance would be required if this tower was placed in the proposed location. A camouflaged tower could be placed on the site and meet all the County requirements without a variance. The variance would be twofold---to meet the residential setback of 796 feet on the west side and for centering the tower in the parent tract. They meet the residential setback at this time on the east side. They have chosen the proposed location for the tower because placing it behind the building would provide some visual barrier.

Ms. Bucher added that the current operations center in Eustis has been there 36 years. The 3,500 square foot building is built on 2.4 acres. The customer service portion of that facility is moving to a new building in Eustis in the early summer. The operations portion of that facility would move to the subject location. When the current facility was built 36 years ago, this was a rural location; but the traffic has increased to the point that it has lengthened their response time, and the facility can no longer meet their customers' needs. She submitted a graphic (Applicant Exhibit B) showing the 4,300 planned residential units in the area as of March when this application was submitted. That figure has changed to 5,300 planned residential units as of today. That does not include three subdivisions for which they do not have the figures. This location will give them good access east and west on SR 44, northerly on CR 439, and hopefully to the south when the extension of CR 439 is finished.

In response to Mr. Richey, Ms. Bucher said they would be dedicating 50 feet of their land for the extension of CR 439. At the suggestion of the County and on behalf of the County, they have been speaking to the property owner to the west to facilitate donation of his land also to secure a 100-foot right-of-way. Mr. Richey confirmed that that is part of the County's long-range plan to have a road come up through there and intersect with SR 44. Ms. Bucher referred once again to Applicant Exhibit A and the communication antenna. It is a monopole-type construction. It will meet all Federal Aviation Authority (FAA) and County requirements either by camouflaged design or a variance.

Ms. Bucher stated that the entire 18.76 acres would be landscaped. The front or northerly portion of the subject parcel, which fronts on SR 44, would have a Type C buffer. The remainder of the property, the east, south, and west sides, would have a modified Type A buffer. They would plant the required number of trees; they just want a different type of tree. They want to do all ornamental trees so that in the event of a storm situation, the downed canopy trees would not impede their emergency storm restoration activities. The new operations center would serve as a staging area for their crews, and it would also allow

CASE NO.: PH#55-06-4**AGENDA NO.:** 3**OWNERS:** Nathaniel and Carolyn Richburg
APPLICANT: Sumter Electric Cooperative, Inc./Victoria
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them to clean up the neighborhood. She submitted a picture of a portion of their land across the street (Applicant Exhibit C), which is the Mount Dora Electrical Substation. They are currently using that land as a makeshift staging area. By locating their new operations center across the street, they will be able to clean up this corner, relocate everything across the street, and store it properly behind a visual buffer. She clarified for the record that this facility is not a commercial use; it is an essential service that serves the public need. It is a place where the work crews gather their materials, supplies, and work plans for the day. They are gone during the daytime and come back at night to turn in their equipment and then leave the facility. Normal business hours would be 8 a.m. and 5 p.m. except in the case of an emergency. Parking will include 28 guest parking spots and 52 employee parking spots. Initially they plan to have about 25 employees at this location.

In response to Mr. Bryan, Ms. Bucher said the office building would be a one-story concrete block building. It will be several hundred feet off CR 44. From the road, there will be the 20-foot wide Type C buffer, the retention area with the parking, and then the building. Mr. Richey clarified that the building will be 350 feet from the road. He added that originally they had a loop driveway going back out to SR 44, but the County asked them to readjust their access points to accommodate the road that the County wants to build.

James Gardner was informed that the public would not visit this site. They will pay their bills at a facility on Bay Street in Eustis.

Alex Kane of Heritage Greens said he has an interest in a number of properties in the area. He submitted a map showing the intersection of SR 44 and CR 439 as Opposition Exhibit A. He spoke of his concerns regarding alignment as well as impervious surface. He felt there is insufficient room to extend CR 439. He questioned whether the 54 percent impervious surface area included the equipment storage area since it is to be paved. He also questioned whether the recharge facilities would be accommodated in any way. Based on the type of facility and the potential for the area around it, he wanted the design of the buffer to be looked at in order to restore the 20-foot buffers. He commented that the barbwire fence would be better located on the inside rather than the outside as proposed. He submitted a second map as Opposition Exhibit B. On this map he has centered and located the proposed tower. The 796-foot radius around that centered point has been shown to give an idea of the areas that would be affected. Some of the equipment to be stored in the equipment storage area such as exposed poles has not been defined as far as content and coverage. The potential leaching of those metals, compounds, and protective coatings into the storage equipment area and grass retention area and then into the water basin at the end could create a future risk.

Mr. Morris confirmed that Mr. Kane is a developer with contractual land in this area. Mr. Kane said the proposed density for his land is still under review; but the current thought of the Land Planning Agency (LPA) is one unit per acre for this transition zone. In response to Mr. Morris, Mr. Kane said his contractual land is east of this facility. He also has contractual land to the south. Mr. Morris confirmed that Mr. Kane is concerned that when the CR 439 extension comes through, more land will be taken.

Dan Riordan said he has lived south and west of the site for 38 years. He did not want this type of facility in his neighborhood or the gasoline that will be stored on site. This facility will destroy the property values in the area. There is already a power station diagonally across the intersection from the subject site. The property north of the power station site has been for sale several times. He felt that would be a more appropriate site. He said he was strongly opposed to this request.

Michael Condon stated the definition of Community Facility District (CFD), noting that he felt this facility is in violation of the second part of the definition. He gave a PowerPoint presentation of the existing facilities in the area and submitted it as Opposition Exhibit C. He noted the poles laying around, adding

CASE NO.: PH#55-06-4**AGENDA NO.: 3****OWNERS: Nathaniel and Carolyn Richburg**
APPLICANT: Sumter Electric Cooperative, Inc./Victoria
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that he felt that the older poles are a huge environmental problem. He said the Groveland training area looks like a storage area. This type of facility does not belong in this area. He felt that hurricane emergency response from this facility would be difficult as it is located away from commercial centers.

Mr. Morris asked if Mr. Condon would feel more comfortable if the poles were covered so the chromated copper arsenate (CCA) would not leach into the system. From that point of view, Mr. Condon said it would.

Bill Ray said he and his wife live east of the proposed site. On his site is an eight-inch well that is the source of their potable water. The well sets about three feet inside their property line, which is less than 50 feet from the storage of the poles. Covering the poles as Mr. Morris suggested would be better than leaving them laying out in the yard as the photos of the existing facilities show. However, it would require covering 90 percent of the surface in order to safeguard against the runoff from hot-dip galvanized coating, which is a carcinogenic. He has had a nursery on his property for quite some time, and the well serves as the potable water source for the employees. Referring to Opposition Exhibit B, Mr. Ray said that circle encompasses almost half of their property. If that were deemed unusable property, it would render his property virtually useless. He would object to that. He said he would prefer a decorative solid wall around the property rather than a barbwire fence with landscaping. The wall would serve as a noise buffer as well as a sight buffer. If the proposed communication tower would be granted for the applicant's purpose only, he felt that would create a better situation. He questioned the need for a 199-foot communication tower for internal communications. He felt collocators would probably use the tower, generating revenue for the applicant. He would like that revenue put into a fence or barricade to isolate the noise and lighting on the subject site. He said the activity at the substation across the street during the hurricanes was intense. He questioned why the applicant could not purchase adjacent land to their current sites and expand them.

Susan Ray said there is a lot of vacant land in this area, but approval of this rezoning would impact the homeowners that live in the area. Although growth is inevitable, she questioned whether this is the type of growth that this area needs. She was especially opposed to the communication tower. Mr. Bryan was informed that the Rays own 30 acres.

Ken LaRoe, who lives about a mile from the subject site, felt this facility is inappropriate for the area; this is an industrial request rather than a CFD request. The site is too small for what they are proposing. The large trucks coming to the site would not be compatible with this rural, residential, and agricultural area. The only way to clean up the area would be to remove the existing substation instead of adding this facility across the street. He questioned how the response time would be improved with the heavy traffic in the area. All the neighbors are opposed to this request.

Ben Brickhouse, Director of Engineering and IT for Sumter Electric Cooperative, said the presentation by Mr. Condon with the pictures of the current Eustis facility clearly demonstrated the need for a larger facility. This new facility will have pole racks to keep the poles off the ground. Sumter Electric is in compliance with all federal, state, and local regulations concerning poles and the treatments used on those poles. According to the Environmental Protection Agency (EPA) website, EPA has not concluded that CCA-treated wood poles pose any unreasonable risk to the public or the environment. Most of the concern with CCA as a treatment has been for playground equipment and decks. EPA recommends that children not play on CCA-treated facilities, that hands be washed after being near such facilities, and that food not be exposed to those types of wood-treated facilities.

Regarding the variance requests, Mr. Richey asked if there would be a problem having a 20-foot buffer with the security fence being internalized. Mr. Brickhouse said that would be fine. There would be no

CASE NO.: PH#55-06-4**AGENDA NO.:** 3**OWNERS:** Nathaniel and Carolyn Richburg
APPLICANT: Sumter Electric Cooperative, Inc./Victoria
Bucher**PAGE NO.:** 4

problem with a Type C buffer all around the facility. Mr. Richey said the only issue was the size of the trees. He confirmed with Mr. Brickhouse that as far as the road alignment, they will be doing what the County engineering department asked them to do. Mr. Brickhouse added that they have also worked with the County on the north side of the road, on the substation property, to make accommodations there as well. Mr. Richey pointed out that the substation is an old facility that was not built to current Code. As part of a good neighbor policy, Mr. Brickhouse said they have begun installing landscaping this week on that property. Regarding the turf blocks, Mr. Richey said they do not have a problem with meeting the impervious surface and storm water requirements. They were doing this for the purpose of recharge. The issue of having it covered with pavement is something they could look at prior to the Board of County Commissioners (BCC) public hearing. Mr. Brickhouse concurred.

Mr. Richey said they did not have a problem with the hours of operation discussed earlier being placed in the ordinance, subject to being able to have emergency use of the facility.

Mr. Brickhouse said this facility would provide a good opportunity to centralize their operations for the northeast portion of the County. When the Groveland facility is upgraded, it would provide the opportunity to serve the southern part of Lake County.

Mr. Richey confirmed with Mr. Brickhouse that there is a 295-foot tower at the existing Eustis facility. The purpose of that tower and the proposed tower is for internal communications. There would be no collocation. Mr. Richey and Mr. Brickhouse had no problem with that being a condition.

Mr. Blankenship asked if they had looked at the property north of the existing substation. Ms. Bucher said they did look at several locations in this general facility. They did not specifically look at the property north of the substation because it was not on the market at the time of their search.

In response to Larry Metz, Mr. Richey reiterated that they did not have a problem with a Type C buffer around the entire facility or locating the security chain-link fence with the climbing inhibitors on top of it within the 20 feet so it is not on the property line. There would be vegetation buffering on the outside of it to protect and buffer the neighbors. The fence could be opaque with some buffer in addition to the plantings. They will work on that prior to their presentation to the BCC.

Regarding the pavers, Mr. Richey said they did that because they were trying to reduce impervious surface and expedite recharge, but there has been a question raised about the pavers and the materials to be stored above them. However, they have no problem with paving. They will address it between now and the BCC public hearing.

In response to Mr. Metz, Mr. Richey said the fence would be along the interior 20-foot buffer line with plantings on the outside of it.

Donald Miller was informed by Mr. Hartenstein that staff's biggest concern was the communication tower. As far as the variances pertaining to the landscaping, staff did not have a problem; but if the applicant and residents agree to a 20-foot landscape buffer, that would be better as a visibility screen.

When Mr. Bryan asked about restrictions placed on this Board when considering telecommunication towers, Melanie Marsh, Deputy County Attorney, said only telecommunication providers fall under the federal provisions.

CASE NO.: PH#55-06-4**AGENDA NO.: 3****OWNERS: Nathaniel and Carolyn Richburg**
APPLICANT: Sumter Electric Cooperative, Inc./Victoria
Bucher**PAGE NO.: 5**

James Gardner said he was having a problem fitting this activity into the Community Facility District. To him, this is more industrial. Placing this operation into this neighborhood, knowing the appearance of the existing facilities, does not fit in his mind. Mr. Hartenstein said that in Chapter 3 of the LDRs under the Community Facility District, the types of uses allowed are defined. He read No. 15, Utilities, Major on Page 3213. This section does not include telecommunication towers. Mr. Gardner said the facility in question could survive anywhere. It does not have to be connected to a power line.

Mr. Morris said he felt fairly confident that they have done the research to know where the growth is going to be. He did not feel there would be commercial growth around it.

MOTION by Timothy Morris, SECONDED by Donald Miller to recommend approval of CFD zoning in PH#55-06-4 with a Type C buffer around the entire site, the communication tower as proposed, and the chainlink fence to be inside the 20-foot buffer.

Mr. Blankenship said he did not feel comfortable that there have been enough options investigated as far as site location. He is familiar with this area and the aesthetics of this type of facility, and he is not convinced that the buffer suggested is enough to mitigate any potential problems. Therefore, he could not support this request.

When Mr. Metz asked if the tower was referring to a camouflaged tower, Mr. Morris said the motion was for the 199-foot monopole tower. If the applicant decides on the standard monopole tower, Mr. Hartenstein said a variance would be needed from the Board of Adjustment.

FOR: Morris, Bryan, Miller, Metz**AGAINST: Blankenship, Gardner****NOT PRESENT: Herndon****MOTION CARRIED: 4-2**

CASE NO.: CUP#06/5/1-3

AGENDA NO.: 5

OWNERS: Eric R. and Eve M. Carter

APPLICANT: Verizon Wireless c/o Laura B. Belflower, P.A.

Stacy Allen, Senior Planner, presented the case and staff recommendation of approval. She showed the aerial from the staff report on the monitor and noted the letter of opposition received from the property owner to the west.

Chairman Bryan stated that no speaker cards had been received for this case.

Laura Belflower, attorney and land planner, was present to represent the case. She submitted an updated ordinance with changes underlined or struck through as Applicant Exhibit A. She has presented these corrections to staff, and she did not think they had any objections. The issues that they have are very minor, basically clarifications to make sure the conditions conform to state law, promote the County's interest, and encourage collocation. She noted the changes at the bottom of Page 1 and the top of Page 2 of the Ordinance. There was some wording in that section about limiting the facility to three carriers and the size to 75 feet by 75 feet and that to expand the size would require coming back through the Conditional Use Permit (CUP) process. That is inconsistent with state law. She did not feel that the County wants to discourage collocation. Therefore, they are proposing the language as shown in Applicant Exhibit A to clarify those issues. The only other change is on Page 2, Term E, regarding the lighting of the tower. The original language seemed to suggest that they were required to light the tower; they are not required to light this tower under Federal Aviation Authority (FAA) requirements and do not choose to do so. Otherwise, they are in agreement with the staff report.

Melanie Marsh, Deputy County Attorney, stated that staff included the legal description for the 75-foot by 75-foot parcel in the CUP Ordinance. That would have to be amended through this process if they were going to expand the actual physical property. When Ms. Belflower said she believed the CUP was on the whole parent tract, Ms. Allen said the CUP is just for the 75-foot by 75-foot lease parcel. She explained that this CUP would be required to go through the rezoning process to expand the lease parcel. Ms. Belflower said that is inconsistent with state law. The legal description they gave the County was for the entire parcel. It may have included a separate legal description for the lease parcel. She will work with the County Attorney's office on that issue prior to the Board of County Commissioners (BCC) public hearing. Ms. Marsh said the Zoning Board could recommend approval of the Ordinance as written, and the County Attorney's office can work on the changes for the BCC public hearing.

Ms. Belflower asked that the number of collocators not be limited to three if the tower can structurally support more. When Timothy Morris asked how staff felt about that, Ms. Allen said she encourages collocation.

MOTION by Donald Miller, SECONDED by Timothy Morris to recommend approval of the request for a Conditional Use Permit for a 175-foot monopole communications tower and associated accessory uses within a 75-foot by 75-foot lease parcel in CUP#06/5/1-3 with the conditions that more than three collocators shall be permitted on this tower and with the lighting change as stipulated on Page 2, Term E3 of Applicant Exhibit A.

FOR: Morris, Blankenship, Gardner, Bryan, Miller, Metz

AGAINST: None

NOT PRESENT: Herndon

MOTION CARRIED: 6-0

CASE NO.: PH#52-06-2

AGENDA NO.: 9

OWNER: Darlene Santiago
APPLICANTS: Luis Soto and Pedro Carrasquillo

John Kruse, Senior Planner, presented the case and staff recommendation of approval with conditions. He showed the aerial and site plan from the staff report on the monitor. He noted that three letters of opposition plus one petition with 40 signatures were received. When Scott Blankenship asked if any comments had been received from the City of Clermont, Mr. Kruse said the Clermont City Council voted to issue a recommendation of denial due to the impact on traffic and the proposed project not being consistent with the rural neighborhood character. That letter was received yesterday. Mr. Blankenship said his recollection of the previous case was that there were issues with the neighbors regarding consistency with the surrounding area as this is a very rural neighborhood. Traffic was also an issue. A traffic light in the future was discussed. He said he had spoken with legal counsel about res judicata. Since both the Zoning Board and Board of County Commissioners (BCC) denied the previous case, there must be a significant change to be heard again. Melanie Marsh, Deputy County Attorney, said that after one year, it is possible to reapply, but the Board of County Commissioners (BCC) would make the determination of whether it is a substantial change that would warrant them to continue hearing it. It does not address this Board so it was her opinion that this Board should hear this case and make a recommendation. Donald Miller was informed by Mr. Kruse that the project would have central water and septic tanks.

Larry Metz said that several months ago this Board had heard a case for a church on the property immediately to the west of the subject property. However, he did not remember the ultimate outcome with the BCC. Mr. Kruse said the BCC denied the request.

Chairman Bryan stated that a speaker card had been received from John Peterson and Arnolando Ceballos. He explained that the cases they wished to speak on, PH#31-06-5 and PH#32-06-5, have been withdrawn.

Luis Soto spoke of a prior lot that was voted on last month. That church was asking for 28,000 square feet of usage. The request now is for 12,800 square feet of usage, which is 40 to 45 percent of the prior request. As far as traffic in the area, there is a road planned between Highway 50 to cross to Hartwood Marsh Road, which would give them access to the back road. About 30 vehicles show up at church services at their current location. He lives on Hartwood Marsh Road. He said there is a lack of land available for a church. There is a growing need for worship centers in the area, especially for minorities and Hispanics.

Arnolando Ceballos said that out of the 65 homeowners and families who live in that neighborhood, only four Spanish-speaking people live there. Those people go to a Catholic Church 2-1/2 miles away from his house. Everything is the same as two years ago. There is still only one way in and one way out, an emergency situation could be a catastrophe. C W Harrell Road is not a road; it is an easement.

Wes Benoit spoke of the problems with the heavy traffic and traffic flow in the area. The residents in the neighborhood are still opposed to a church on this parcel.

Paul Adams, a resident in the immediate area, said he was asked to speak on behalf of the residents who signed the petition but could not be at this public hearing. He submitted a petition of opposition with eleven additional signatures as Opposition Exhibit A. He gave a PowerPoint presentation and submitted the disk as Opposition Exhibit B. The parcels east of Hancock Road have been and still are agricultural/rural. That area east of Hancock Road consists of approximately 90 lots and represents about 450 acres. The parcels are five acres; but it is not a subdivision, per se. West of Hancock Road there are about 200 acres of properties that are still rural in style. The issue with the traffic light was brought up during the last request and has not changed. There is a right-of-way issue that prevents this traffic light being installed. There have been three accidents requiring ambulances at that intersection since the last rezoning request. There are seven Spanish-speaking churches in the area at this time and the parking lots are not full during services so there is no great need for additional churches for the remaining residents. He was concerned about the large amount of impervious surface impacting the area. He said he has baby tortoises on his property.

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The first responders for this area are 12 miles away in Minneola. The first responders west of Johns Lake Road are in Clermont, 1.5 miles away. This church would have a serious problem if there was a situation in which emergency services were required. The neighbors are still opposed to the rezoning for the same reasons as before. The circumstances are the same. There are no other CFD-zoned parcels in the area, and there are no substantial changes in the area to justify the rezoning. He was also concerned about the small size of the parcel based on the size of the congregation of that church. A recommendation was made by the BCC during the previous request that the applicant look for a parcel to the west of Hancock Road. He felt the rezoning should be based on the current status of that area, not on proposed or future changes. He asked that this Zoning Board remain consistent and deny this current application.

Melissa Schultz, a resident on C W Harrell Road, submitted a map (Opposition Exhibit C) and pointed out where she lives, the pink highlighted parcel. The subject property is highlighted in yellow, and the orange highlighted property is the rezoning case the BCC denied in March. She is constantly being bombarded by CFD rezonings wanting to come into her neighborhood. She noted all the homes in the area as shown on Opposition Exhibit C. CFD-zoned property does not belong in the middle of residential and agriculture. She stated that Mr. Soto had said he lives off Hartwood Marsh Road yet his application says he lives in Davenport, Florida. The application states that the rezoning is for a possible church and provides drawings of temporary buildings. Nothing is permanent with this case. She was concerned about this being approved when the applicants has been hesitant to clearly state their intent and purpose for the land use. She felt this is due to the fact that the current owner has told the applicant about the previous request being denied in 2004. A larger site is needed; she was concerned about the future of this parcel once this congregation has outgrown the property. It will never be returned to the way it is now. She spoke of the animals in this area and how this church would affect them. If this request is approved, it will change their whole lifestyle. She was also concerned about undesirables, such as vagrants looking for assistance, coming to the church and into their neighborhood. This is safety concern for the residents who live in the neighborhood. An approval of this request would change the quality of life for the existing residents.

Mr. Bryan asked if associated uses would include a day care center. Mr. Kruse replied that church ordinances usually include associated uses consisting of day care and even a specific use such as a school. If it is silent, Mr. Bryan asked if a day care center would be an allowable use. Mr. Kruse said it would not be. To clear up any unknown, Mr. Kruse said language could be added stating that the site shall not allow day care use.

Douglas Faivre, member of the Board of Directors for the Magnolia Park Homeowners' Association, which is a 250-home community, felt the biggest issues were traffic and safety. He reiterated that nothing has changed since the request in 2004. The roads have not been widened yet. The only thing that has changed is development. There is more development, more traffic, and no traffic light. With all this development, he questioned where the animals would go. Commr. Cadwell had remarked that he had hoped this area would forever be a buffer between Lake and Orange Counties. When Mr. Faivre asked how many members would be in this church, Mr. Bryan said that could be addressed in the rebuttal.

Darlene Santiago, owner of the property, said this request is a smaller and different church. The property is large enough to accommodate the request. The Hispanic community has a need for more churches. The amount of traffic generated is minimal and will not impact the existing traffic. She pointed out that there is a minority of Hispanics in Lake County so a large church would not be needed.

Amye King came into the public hearing.

Ms. Santiago said it is very difficult to start up a church in Lake County. A church is always a good neighbor. They provide landscaping for a good appearance and are protectors of animals. They want a

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APPLICANTS: Luis Soto and Pedro Carrasquillo

peaceful area; that is why this is a good location for the church. In response to Timothy Morris, Ms. Santiago said she has owned the property about 1-1/2 years. She lives on the property part of the time, but she also has a primary residence somewhere else.

Elaine Renick confirmed with Mr. Bryan that this Board is aware that the City of Clermont is opposed to this request. Speaking as a private citizen, Ms. Renick reiterated that this is a rural area with traffic problems. She was concerned that this request came back as a scaled back request because the applicants may ask for an expansion in the future. This would result in a large church in the wrong place.

Regarding the traffic, Mr. Soto said services will only be held on Sunday and one evening during the week. Their proposed church is not associated with the prior church request. This is a much smaller church. Although one of the other applicants does live in Davenport, he lives in a subdivision on Hartwood Marsh Road. The application did indicate a possible church, but their intention is to build a church, not a day care or school. There are other churches on the west side of Hancock Road, but they are not the same type of church as the proposed church. In response to Mr. Bryan, Mr. Soto said the current membership is 60 to 65. The eventual membership will be 100 to 120. Mr. Bryan asked the prominent uses for the multipurpose building. Mr. Soto said they may use it as a gym for use after church on Sunday or to hold a dinner after church. When Mr. Bryan asked if they plan on having an active youth program, Mr. Soto replied that they currently have an active youth program and will continue it at this property. They sometimes meet at the facility on Sunday and also have outside activities. The modular-type temporary structures will be on the site until the primary structures are constructed. Mr. Bryan confirmed with Mr. Kruse that the Ordinance states that the primary structures must be constructed within 36 months. Mr. Bryan asked if a bond is required for the removal of the modular structures within 36 months. One of his concerns with a temporary versus permanent structure is that it may be difficult to get the permanent structures constructed with rising construction costs. Ms. Marsh said the County has not required bonding in the past on these types of ordinances. The Board may want to consider requiring a valid building permit within 36 months or the applicants must come back before this Board.

Mr. Bryan said traffic seems to be the reoccurring concern. When he asked staff's position on the existing road capacity and the impact from this facility, Ross Pluta, Engineer III, said that when the signaling for this intersection is improved, it will solve some of the problems. Public Works also considers that with churches, they do not generate traffic during peak hours.

Mr. Blankenship said his position has not changed since the last time this property came forward. The request is not the right fit for this property. There are too many unresolved issues such as access and utilities. Over 85 percent of the residents that live in the greater area are against this rezoning, even some Hispanic residents. He thought the Clermont City Council was unanimously against this request.

MOTION by Scott Blankenship, SECONDED by Larry Metz to recommend denial of the request in PH#52-06-2.

FOR: Morris, Blankenship, Gardner, Bryan, Miller, Metz

AGAINST: None

NOT PRESENT: Herndon

MOTION CARRIED: 6-0

CASE NO.: PH#48-06-2

AGENDA NO.: 10

OWNER: Kanta Deeying
APPLICANT: Guy Grayford

John Kruse, Senior Planner, presented the case and staff recommendation of denial. He showed the aerial from the staff report on the monitor. He submitted a letter from the City of Clermont as County Exhibit A, explaining that the City of Clermont concurs with the staff recommendation of denial. He noted that no letters of opposition have been received.

Paul Bryan was informed by Mr. Kruse that no application for a land use plan amendment has been submitted. Mr. Bryan asked if it was appropriate to hear this request since it violates the Comprehensive Plan. Melanie Marsh, Deputy County Attorney, said the applicant would need to get a Comprehensive Plan amendment first. When Mr. Bryan said he did not feel the case should be before this Board, Ms. Marsh explained that if an application is filed, staff must process it. Mr. Kruse said he has spoken to the applicant about this issue, but the applicant has chosen to go forward with it.

Mr. Bryan asked if they would be denying the applicant due process if this Board does not hear the case. Ms. Marsh said the applicant could present evidence to this Board indicating that they are in compliance with the Comprehensive Plan. The Board would also have the option to continue, deny or table this case until the land use issue is resolved.

Bret Jones, attorney for the applicant, stated that he would like to request a 60-day continuance based on comments from staff and the County Attorney in order to bring the land use into compliance, to make the proper applications, and to review the Comprehensive Plan to ensure that the application is following the correct procedure.

Mr. Kruse stated that a land use plan amendment could not be completed in 60 days. A longer timeframe would be needed.

Mr. Bryan said he understood that, but it may be that the issue could be resolved in 60 days. He said he had some speaker cards for this case and asked if there was anyone in the audience who opposed a 60-day continuance of this case.

MOTION by Scott Blankenship, SECONDED by Timothy Morris to continue PH#48-06-2 until the July 5, 2006 Lake County Zoning Board public hearing.

FOR: Morris, Blankenship, Gardner, Bryan, Miller, Metz

AGAINST: None

NOT PRESENT: Herndon

MOTION CARRIED: 6-0

CASE NO.: PH#51-06-4

AGENDA NO.: 13

OWNER: David H. Young
APPLICANT: I. Ed Pantaleon, P.A.

Rick Hartenstein, Senior Planner, presented the case and staff recommendation of approval with the standard language in the Ordinance regarding school concurrency. He showed a picture of the posting of the sign and the aerial from the staff report on the monitor. He spoke of the zoning in the area and showed the map of boundary and topographic survey of Wolf Branch Estates from the staff report on the monitor as well as a map of the future land use designations in the area. He noted the one letter of opposition that had been received.

When Scott Blankenship asked the number of residential homes that had been approved in this area that would impact these same three schools but have not been built yet, Mr. Hartenstein said he did not have that figure. Mr. Blankenship said that would be helpful information to the Board especially with these smaller subdivisions, which could have a cumulative effect. Mr. Hartenstein commented that once school concurrency is in place, he felt there would be some database information that staff can rely on for past history. Once school concurrency is in place, Paul Bryan thought it would come into play at time of platting, which may mean that appropriate zoning is in place but platting cannot be started. Mr. Hartenstein concurred.

Larry Metz questioned what circumstances would cause a development to be exempt from concurrency requirements. Mr. Hartenstein stated that the County would need a written statement from the School Board stating that the development is exempt. The language in Section 1 of the Ordinance was drafted by the County Attorney's office and is meant to mean that the County would receive documentation from the School Board stating that the School Board has determined that a development is exempt from concurrency.

Ed Pantaleon was present to represent the case. He stated that the objective of this subdivision is to have an estate-type low-density subdivision, which is compatible with the area, and to join with the School Board in meeting all school concurrency requirements.

Colt Little was present on behalf of Andrew and Leslie Garvis, who wrote a letter of opposition. The Garvises own approximately ten acres across Wolf Branch Road from the subject property, where they conduct horse farm operations. The Garvises are opposed to this rezoning. The R-2 zoning, if approved, would be inconsistent with a large portion of the surrounding properties that are still zoned Agriculture. The Garvises felt the proposed use of the property under the new R-2 zoning would not be compatible with the actual current use of the adjacent properties, which are used for agricultural purposes.

Edward Sorrell, owner of four acres southwest of the subject property, said currently his property is used as a horse farm. He is not opposed to development on this property, but he felt 2-1/2 units per acre sounded a little dense to him compared to what surrounds the property. He was concerned about the entrance to the property being on Vine Street. This would create some traffic issues. He was also concerned about the noise from the houses and cars. The noise will be adjacent to his horse pasture. He would like to see the noise reduced during and after construction.

George Gideon, who lives on Wolf Branch Road across from the subject property, was concerned about traffic on Wolf Branch Road and Vine Street, the noise, and public services from the County.

Ed Pantaleon reiterated that this rezoning request is compatible with the surrounding area; it is low density. The sketch shown by Mr. Hartenstein is a preliminary diagram as far as the lot layout. There will be less than 18 lots in the subdivision. Regarding the additional traffic on Vine Street, this will not be a large subdivision, probably 14 to 16 lots. As far as noise and a possible buffer, he said they would be willing to meet with Mr. Sorrell to discuss the options.

CASE NO.: PH#51-06-4

AGENDA NO.: 13

OWNER: David H. Young
APPLICANT: I. Ed Pantaleon, P.A.

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MOTION by Timothy Morris, SECONDED by Scott Blankenship to recommend approval of PH#51-06-4.

FOR: Morris, Blankenship, Gardner, Bryan

AGAINST: Miller, Metz

NOT PRESENT: Herndon

MOTION CARRIED: 4-2

CASE NO.: PH#46-06-4

AGENDA NO.: 14

OWNER: Lake Warehouse & Storage/R. A. Bazinet
APPLICANTS: Land Use Associates (Sharon O. Farrell)/
Bruce Duncan

Rick Hartenstein, Senior Planner, presented the case and staff recommendation of approval with conditions. He showed a picture of the posting and the aerial from the staff report and noted the zoning in the area. He pointed out a condition in the staff report regarding the addition of a six-foot buffer wall along the southern property line to separate the industrial and residential zonings. The requested rezoning is compatible with the immediate vicinity. When Scott Blankenship asked the setbacks between industrial and residential zonings, Mr. Hartenstein said there would be a 30-foot Type D landscape buffer required if they were going to do anything that would cause them to come back for site plan review. They are basically not changing anything. They are not building any structures at this time. They are storing things in a building on that property, and they want to bring that into MP zoning to avoid any Code violations. They have no Code violations at this time. Mr. Blankenship was informed that the parking of vehicles would be located behind the buffered area. Mr. Hartenstein did not feel that would be a negative impact at all.

Chairman Bryan said no speaker cards had been submitted for this case.

When Timothy Morris asked why this case was removed from the consent agenda, Mr. Hartenstein referred to the letter from the City of Mount Dora regarding annexation in the backup material for this case. Mr. Blankenship was informed by Mr. Hartenstein that at some point annexation may take place, but the property is not annexable at this time.

Bruce Duncan with Potter Clement Lowry and Duncan was present on behalf of the Richard Bazinet. Sharon Farrell is also involved in the case. He submitted two pictures (Applicant Exhibit A) showing the 20-foot wide easement owned by Mr. Bazinet and the existing six-foot fence on the southern property line. There is also a 20-foot buffer that exists between the two parcels. Mr. Duncan said they had anticipated the letter from the City of Mount Dora as they have had some conversations with Mark Reggentin, a City Planner for the City of Mount Dora. Mr. Reggentin has acknowledged that this property is not right for annexation at this time and will probably never be annexed into the City of Mount Dora even though it is in the Joint Planning Area (JPA). If the property would ever need water and sewer from Mount Dora, the owner could enter into an annexation agreement with the City of Mount Dora. In that annexation agreement, it will state that when and if the City of Mount Dora decides to annex this property or the property becomes right for annexation, they would then have to change the use to a use that is compliant with whatever the City of Mount Dora requires in this area. Mr. Duncan questioned whether the wall was to be constructed at the time of site plan review or initially when the rezoning request is approved. They have an existing buffer, a six-foot fence, which they feel is adequate and disagree with staff's requirement of a wall. Mr. Bazinet maintains the fence. Mr. Morris suggested putting in the Ordinance that the six-foot fence must be maintained. Paul Bryan asked Mr. Hartenstein if he felt the existing six-foot fence would be adequate. Mr. Hartenstein replied that the only concern that staff would have is that the County is already working on some issues about incompatible zonings between industrial and residential. This was a concern of the County Attorney as far as the potential for a negative impact in the future. He showed a boundary survey (Applicant Exhibit B) submitted by Sharon Farrell on the monitor. He did not have a problem with not requiring a wall until site plan review as long as the six-foot wooden fence is maintained as the existing buffer until that time. However, in order to protect the County, he feels that language needs to be included in the Ordinance. Mr. Bryan agreed that the fence was adequate at this time. A wall could be added at the time of site plan review, if needed. Mr. Morris concurred.

MOTION by Timothy Morris, SECONDED by Donald Miller to recommend approval of MP zoning in PH#46-06-4.

CASE NO.: PH#46-06-4

AGENDA NO.: 14

OWNER: Lake Warehouse & Storage/R. A. Bazinet
APPLICANTS: Land Use Associates (Sharon O. Farrell)/
Bruce Duncan

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Amendment by Timothy Morris, SECONDED by Donald Miller to add the condition that the existing six-foot fence would serve as an adequate buffer until such time as the property goes through site plan review when requiring a wall would be considered.

FOR: Morris, Blankenship, Gardner, Bryan, Miller, Metz

AGAINST: None

NOT PRESENT: Herndon

MOTION CARRIED, 6-0
AS AMENDED:

Adjournment

There being no further business, the meeting was adjourned at 12:25 p.m.

Respectfully submitted,

Sherie Ross
Public Hearing Coordinator

Paul Bryan
Chairman